

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KUECKER LOGISTICS GROUP, INC.,

Plaintiff,

vs.

GREATER OMAHA PACKING CO., INC.,

Defendant.

8:20CV307

**ORDER ON MOTION TO FILE SUR-
REPLY BRIEF**

This case is before the Court on defendant Greater Omaha Packing's Motion to File Sur-reply Brief, *Instantly*. [Filing 64](#). Greater Omaha Packing seeks leave to file a short sur-reply brief in opposition to plaintiff Kuecker Logistic Group's Motion for Summary Judgment. [Filing 64 at 1](#). A copy of the proposed sur-reply brief is attached to Greater Omaha Packing's Motion. [Filing 64-1](#).

There is no provision in either the Federal Rules of Civil Procedure or the Court's local rules expressly authorizing the filing of a sur-reply. NECivR [7.1\(c\)](#) may permit the filing of a sur-reply but only with leave of the court. Whether to allow a sur-reply is a matter in the Court's discretion. See *Postawko v. Missouri Dep't of Corr.*, 910 F.3d 1030, 1037 n.3 (8th Cir. 2018). Greater Omaha Packing asserts that the sur-reply is justified because Kuecker Logistics Group sought and received leave to extend the time to file its reply brief and additional index of evidence. [Filing 64 at 1](#). The Court concludes that there is no reasonable need to depart from the general prohibition on sur-reply briefs in this case, where the applicable rules have already provided Greater Omaha Packing with a full and fair opportunity to respond to Kuecker Logistics Group's Motion for Summary Judgment. It is unclear how the common situation of extending the time for

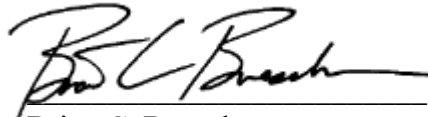
Kuecker Logistics Group to file a reply brief by one week warrants granting Greater Omaha Packing the unusual opportunity to file a sur-reply.

Accordingly,

IT IS ORDERED that defendant Greater Omaha Packing's Motion to File Sur-reply Brief, *Instanter*, [Filing 64](#), is denied, and the Court will not consider the proffered sur-reply brief. [Filing 64-1](#).

Dated this 7th day of March, 2023.

BY THE COURT:

A handwritten signature in black ink, appearing to read "B. C. Buescher", written over a horizontal line.

Brian C. Buescher
United States District Judge